

Sec. 723-16. - Sidewalk Vending.

(a)

The city manager or his designee is authorized to grant revocable street privileges for the placement of vending locations subject to the following restrictions:

1.

Definitions.

i.

The "Downtown Vending District" shall be defined as follows: the area within the public right-of-way within the bounds beginning at the intersection of the north property line of East Central Parkway and the east property line of Eggleston Avenue as projected northeastwardly; thence southeastwardly along the projected east property line, the actual east property line and the projected east property line of Eggleston Avenue to the south city corporate limit; thence west along the south city corporate limit to the west property line of Central Avenue as projected southwardly to the city corporate limit; thence northwardly along the west property line of projected Central Avenue and the actual west property line of Central Avenue to the north property line of West Court Street; thence eastwardly along the north property line of West Court Street to the west property line of Plum Street; thence northwardly along the west property line of Plum Street to the projected north property line of West Central Parkway; thence east along the projected and actual north property line of Central Parkway to the west property line of Main Street, thence northwardly along west property line of Main Street to the south property line of Liberty Street to the east property line of Main Street, thence southwardly along the east property line of Main Street to the actual north property line of East Central Parkway, thence eastwardly along the north property line of East Central Parkway to the point of beginning.

ii.

The "Court Street Vending District" shall be defined as the area within the public right-of-way on East Court Street, south side, from the west line of Main Street to the east line of Vine Street.

iii.

The "Liberty/Dalton Street Vending District" shall be defined as the area within the public right-of-way beginning at a point being the intersection of the west right-of-way line of Dalton Street and the north right-of-way line of Flint Street. Thence north along the west right-of-way line of Dalton Street to the point of intersection with the south right-of-way line of Findlay Street. Thence east along the south right-of-way line of Findlay Street to the point of intersection with the east right-of-way line of Dalton Street. Thence south along the east right-of-way line of Dalton Street to the point of intersection with the north right-of-way line of Flint Street. Thence west along the north right-of-way line of Flint Street to the point of intersection with the west right-of-way line of Dalton Street, being the point and place of beginning.

iv.

The "Short Vine Vending District" shall be defined as the area beginning at a point being the intersection of the north right-of-way line of Corry Street and the east right-of-way line of Vine Street. Thence north along the east right-of-way line of Vine Street to the point of intersection with the south right-of-way line of Martin Luther King Jr. Drive. Thence west along the south right-of-way line of Martin Luther King Jr. Drive to the point of intersection with the west right-of-way line of Vine Street. Thence south along the west right-of-way line of Vine Street to the point of intersection with the north right-of-way line of Corry Street. Thence east along the north right-of-way line of Corry Street to the east right-of-way line of Vine Street, being the point and place of beginning.

2.

Vending Site Locations.

i.

The city manager or his designee may, at his sole discretion, designate sites within the defined vending districts for either food vending or merchandise vending and shall identify approved sites on maps and/or by approximate address. Additional sites may be requested in writing by persons interested in vending at specific locations which have not been designated for vending of the type proposed in the request. The city manager or his designee shall exercise sole discretion in determining the appropriateness of the requested location and shall notify the applicant in writing of his decision.

ii.

Temporary locations for use in relocating vendors from special event areas or for handling short-term (under seven (7) days) demand for vending locations prompted by special events, holidays, sports championships, and other such occurrences, may be established and withdrawn by the city manager or his designee at any time.

3.

Applications for Vending Locations.

- i.
Persons desiring to obtain a revocable street privilege for a vending location shall submit an application on a form to be provided by the city manager or his designee which shall:
 - aa.
Identify the name and tax ID number of the applicant;
 - bb.
Identify the type of vending location requested (food or merchandise);
 - cc.
Identify the name and address of the person authorized to receive notices pursuant to Chapter 718 of the Cincinnati Municipal Code;
 - dd.
Include proof of liability insurance in an amount not less than \$1,000,000.00. The City of Cincinnati shall be named as an additional insured;
 - ee.
Include a non-refundable application fee as set forth in the fee schedule adopted by City Council;
 - ff.
Include a copy of the applicant's current food service license issued by the Board of Health, if applicable.

4.

Assignment of Vending Locations.

- i.
Revocable street privileges for vending locations will be awarded based on an annual lottery.
- ii.
The lottery will be held at 9:30 a.m. on the third (3rd) Thursday of March of each year.
- iii.
In order to participate in the lottery, applicants must submit their applications by the second (2nd) Thursday of March.
- iv.
Applicants must be present at the lottery in order to choose their assigned vending location.
- v.
Applicants may submit one (1) application in the lottery for food stand permits for each cart controlled by the applicant for which the Cincinnati Board of Health has issued a current mobile food license.
- vi.
The random drawing for food vending locations within the vending districts shall be conducted in one or more rounds according to the following procedures:
 - aa.
Signed applications from otherwise qualified individual applicants shall be included in the first round drawing.
 - bb.
Applications shall be drawn at random and applicants shall be allowed to select their vending location from the available locations in the order that their application was drawn.
 - cc.
The first round random drawing shall be conducted first and each qualified applicant shall choose a single vending location until the applications and/or available locations are exhausted.
 - dd.
In the event that all available food vending locations are not assigned in the first round random drawing, a second and successive round of drawings shall be held for the assignment of the remaining locations.
 - ee.
Otherwise qualified applicants with more than one licensed food cart and submitting more than one application may be included in each successive round of drawing for each application until the availability of food vending locations is exhausted.

vii.

The lottery for merchandise vending locations shall be conducted in the same manner as the lottery for food vending locations.

viii.

Applicants who are assigned food and/or merchandise locations during the lottery shall be issued revocable street privileges for full terms only (as opposed to shorter terms.)

ix.

The city manager or his designee shall issue a revocable street privilege for each vending location awarded upon payment of the required fees, as set forward in the fee schedule adopted by City Council.

x.

Revocable street privileges for vending locations awarded by lottery shall expire three (3) years after issuance and may be renewed at the option of the applicant, upon provision of thirty (30) days' written notice to the city manager or his designee, for up to two (2) additional two (2) year periods. At the expiration of the third (3rd) period, the location shall be placed back into the available locations to be awarded by lottery.

xi.

Vending district locations included in but not awarded during the lottery are available on a first-come, first choice basis at the discretion of the city manager or his designee during regular business hours. Revocable street privileges issued in this manner shall be valid for the portion of the calendar year specified in the revocable street privilege. Fees shall be pro-rated accordingly.

xii.

Revocable street privileges for vending locations are revocable at any time as set forth in Chapter 718. In the event of revocation, the vendor shall be entitled to a refund of the pro-rated fee amount for that vending location. In the event of revocation not caused by any act or omission of the vendor, the city shall make every effort to accommodate the vendor by identifying alternative vending locations.

xiii.

Notwithstanding any other provisions of this section, vendors who have occupied the same vending location(s) for at least five (5) years prior to the enactment of this section and who have remained in good standing with the city shall be entitled to retain sixty percent (60%) of their locations, rounding up to the nearest whole number. Vendors may select which of their locations they wish to retain under this provision. Those locations will not be included in the 2010 vending lottery. If the vendor has only occupied one location for the previous five (5) years, the vendor shall be entitled to retain that location. Vendors will be issued revocable street privileges for the locations they wish to retain. Those revocable street privileges shall expire three (3) years after issuance and may be renewed at the option of the applicant, upon provision of thirty (30) days' written notice to the city manager or his designee, for up to two (2) additional two (2) year periods. Upon expiration or revocation of the revocable street privileges, the locations will be placed back into the lottery. Revocable street privileges issued pursuant to this section shall remain revocable by the city as set forth in Chapter 718 of the Municipal Code.

5.

Financial Standing.

i.

Vending locations will only be awarded to individuals or businesses that are in good standing with the City of Cincinnati. Vendors must abide by all applicable ordinances and regulations of the City of Cincinnati, including local tax requirements. Locations may be forfeited if the individual or business is not fully compliant with any city ordinance or regulation, or fails to make timely payments required thereunder.

ii.

Following the award of a vending location, the vendor's name, contact information and federal taxpayer identification number will be forwarded to the City's Income Tax Division. Vendors may contact the Income Tax Division at (513) 352-2546 for additional information.

6.

Vending Sales Practices and Displays.

i.

Merchandise and/or food may not be displayed or sold from any automobile or to the occupants of vehicles stopped in traffic.

ii.

Merchandise and/or food may not be displayed or sold in a manner that blocks, obstructs or restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.

iii.

Merchandise and/or food must be displayed or sold from portable stands or containers. Each vendor must remove all food, merchandise, packaging, paper, containers, display stands or tables, or other materials brought to the location at the termination of sales each day.

iv.

A vendor's display stand, cart, container or other appurtenances, paraphernalia, merchandise, supplies or signage may not occupy more than forty-two (42) inches of lateral sidewalk width, nor more than seventy-two (72) inches of longitudinal sidewalk area.

v.

Vendors must keep the area within ten (10) feet of their assigned sites free from all litter and debris arising from their operations, including the litter which arises from actions of customers in disposing of wrapping or packaging materials on food and/or merchandise sold by the vendor.

vi.

Vendors must at all times exercise reasonable care that their food, merchandise, packaging material, display equipment and/or other paraphernalia does not create a safety or health hazard to customers or other persons using the public highways or sidewalks or to persons on or in abutting property.

vii.

Vendors may utilize no more than one stool or high-seated folding chair at each vending location. The seat of any stool or chair used must be, at minimum, twenty-five (25) inches above the ground. Chairs and stools must be maintained in good repair.

viii.

All non-food merchandise which is not on display for sale must be stored under each vendor's table in rigid plastic, metal or wooden storage containers. Cardboard boxes, paper bags and plastic bags are prohibited for on-site storage.

ix.

Sales at authorized street vending sites are permitted at all hours unless restricted hours are specified for specific sites. Restrictions may be based on concerns for pedestrian access, operations in retail and office spaces adjacent to the site, or as otherwise deemed necessary by the city manager or his designee to protect the public safety, convenience and welfare.

x.

Revocable street privileges for vending locations must be kept at the designated vending site and available for immediate inspection upon request during any time the assigned space is occupied by the vendor and/or his agent(s).

xi.

Vendors may not occupy any designated parking space with food and/or merchandise or equipment. Vendors may not occupy any designated parking space with a vehicle for more than the maximum time allowed by law.

xii.

Vendors may utilize their assigned vending location to display advertising of the vending business or of products sold at the vending location. No other advertising shall be allowed at vending locations.

xiii.

The city manager or his designee is hereby directed to draft material, equipment and aesthetic standards applicable to vendors. Upon approval of these standards by Council, all vendors must comply with the standards.

7.

Special Events.

i.

Provisions for vendors whose vending sites are affected by special events authorized by the City Council, or by lawful construction or demolition, a disaster or emergency condition, or a significant change in the use of the street or sidewalk space in the vending district, are as follows:

aa.

When City Council passes an ordinance in connection with a special event which temporarily prohibits peddling and/or vending in a specified area within any vending district, except that which is authorized by the special event sponsor and such area includes established street vending locations or when, as a result of lawful construction or demolition, a disaster or emergency condition, or a significant change in the use of the street or sidewalk space in the vending district, it is necessary to eliminate an established vending site, the revocable street privilege for the vending location is valid at any designated temporary location within the defined vending districts.

bb.

The city manager or his designee shall designate temporary locations for vending on an as needed basis. The location of such temporary sites shall be at the sole discretion of the city manager or his designee.

cc.

The city manager or his designee shall determine if a random drawing is necessary to assign temporary locations or if assignment will be handled on a first-come, first-served basis. If a random drawing is recommended, the names of vendors for all affected sites will be entered into the drawing. Upon the drawing of the vendor's name, that vendor may select from the designated temporary locations for any or all of the sites for which he has current revocable street privileges.

(Ordained by Ord. No. 363-2009, § 1, eff. Jan. 16, 2010)

Cross reference—Penalty, § 723-99-C.